PROJECT TITLE : LEGISLATION

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DRAFT OF A LABOUR PROTECTION LAW

In December 1981 the Federal Ministry of Labour and Social Affairs in Germany presented a draft of a Labour Protection Law. This law is intended "to consolidate existing labour protection laws and to base labour protection on modern principles".

It is envisaged that the law should come into force on 1.1.1985.

Paragraph 36 of the draft is worded as follows :

"Paragraph 36 Protection of NON-Smokers

> The employee can demand that the employer ensures that other employees do not smoke in the vicinity of his workplace in a manner which inconveniences him".

This regulation applies not only to rest rooms, but also to every workplace (including outdoors) and to employees' communal accommodation, for which the draft likewise contains regulations.

Paragraph 36 is contained in the section "Employees' Rights and Obligations", that is to say it gives the individual employee a claim on the employer, who, in the sense of this draft, is generally understood as a guarantor of labour protection.

The regulation in this draft law for the protection of non-smokers goes far beyond any serious regulation proposals, which have hitherto been discussed in case law, science and politics. The subjective feeling of an employee who feels inconvenienced by tobacco smoke is raised as the sole criterion relevant in law, and this is linked to a corresponding claim on the employer to issue a smoking prohibition. If this regulation were in fact passed, the interests of our industry would be seriously impaired.

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